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CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT

Notification

The 28th January, 2025

No. 490801 -HII(2)-2024/1495.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. **44/2023** dated **13.12.2024** delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

MANMOHAN SINGH S/O SH. HARJIT SINGH, H.NO.4572/C, MIG SUPER, SECTOR 70, MOHALI. (Workman)

AND

CHANDIGARH INDUSTRIAL & TOURISM DEVELOPMENT CORPORATION LIMITED,
S.C.O. NO.121-122, SECTOR 17-B, CHANDIGARH THROUGH ITS MANAGING DIRECTOR.
(Management)

AWARD

1. Manmohan Singh, workman has presented industrial dispute under Section 2A(2) of the Industrial Disputes Act, 1947 (*here-in-after in short called 'ID Act'*).

2. Briefly stated the averments of claim statement are that the claimant-workman (*here-in-after 'workman'*) was appointed on 04.04.1998 as Telephone Operator and was deployed at Hotel Shivalik View, Sector 17, Chandigarh a unit run by CITCO. The workman remained in the continuous & uninterrupted employment up to 26.07.2021 when his services were illegally & wrongfully terminated vide letter dated 27.07.2021 of the Corporation. At the time of termination, the workman was deployed at Transit Lodge, Sector 17, Chandigarh and he was working as Receptionist. The workman was drawing ₹ 53,283/- per month as wages at the time of termination. On 06.08.2019 the workman was issued show cause notice N.P&A/EA/6202 dated 06.08.2019 on the subject irresponsible behavior - Show Cause Notice thereof.

Signature of the
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Location:

The workman was placed under suspension on 07.08.2019. On 08.08.2019 the workman demanded copy of the complaint submitted by Mr. Sajjan Kumar - ASI Haryana Police, copy of the complaints submitted by three women along with their names and addresses and CCTV footage of the alleged time of incident which was very much material and required for his defence and reply. In reply to the letter dated 08.08.2019 vide which

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certain documents were demanded by the workman. The management vide its letter No. Persnl/EA-III/4125 dated 06.09.2019 replied and stated that copy of the complaint Mr. Sajjan Kumar, ASI is enclosed. Sh. Om Parkash - Guard at reception made verbal complaint and CCTV was switched off by the staff so no footage is available. The workman replied the show cause notice on 11.09.2019 denied all the alleged charges and requested the CITCO management to drop the show cause notice on the ground that as per the attendance record forwarded by the DGM, the workman was not present on 18.07.2020 onwards. No guest by the name of Sajjan Singh took bed No.1 of Dormitory, Mr. Om Parkash - Guard, might have dealt with ladies and why the DGM has not informed the Head Office about switched off the CCTV cameras. On 20.02.2020 the workman was charge-sheeted by the management vide memo No.Persnl/EA-III/6622 dated 15.10.2019 on the alleged charge of having been negligent as he was under the influence of liquor during duty hours as at Transit Lodge and was unable to perform his duties. He has misbehaved with ASI of Haryana Police and three women as 19.07.2019. The management relied upon the alleged report of Deputy General Manager, Hotel Shivalik View and prepared the charge sheet. The workman replied the charge sheet which was received in the office on 04.11.2019 in which he has denied all the charges levelled against him in the charge sheet. The management without considering the reply judicially and informing the workman that the reply to the alleged charges is not found to be satisfactory hastened to go for an inquiry by appointing Mr. Narinder Kumar Wadhawan, IAS (Retd.) as Inquiry Officer to enquire into the alleged charges. The management produced two witnesses in the inquiry, whereas workman himself appeared in the inquiry. The management did not produce Sh. Sajjan Singh - ASI Haryana Police in the inquiry as state witness. Mr. Narinder Kumar Wadhawan - Inquiry Officer is a biased person. He has always proved the charges against the employees even by exceeding his jurisdiction. He has wrongly proved the charges against the workman and sent the report to punishing authority. The copy of the inquiry report was sent to the workman to submit his representation, if any, vide letter No. Persnl/EA- III/590 dated 16.04.2021 of the Corporation. The workman submitted his representation on 06.05.2021 wherein he has stated that he is not guilty as projected as he was declared absent on the alleged date of incident. The management did not appreciate his representation. The inquiry was full on defects on the following grounds :-

- i. The workman was not allowed to cross-examine Mr. Bikram Virk, DGM Hotel Shivalik View who deposed in the inquiry on 07.09.2020. The DGM did not said anything about the alleged misbehave with three lady guests by the workman. Therefore, the signatures of workman were not obtained on the statement of DGM. The Inquiry Officer also did not sign the statement of DGM in token of his presence and make the statement.
- ii. The second witness Sh. Anil Kumar Grover did not corroborate the statement of DGM. He has not said that the workman was in a drunken state and had misbehaved with ASI Sajjan Singh and three women guests. He has stated that ASI Sajjan Singh had threatened Manmohan Singh. He has further stated that DGM has said he will teach a lesson to Manmohan Singh. He has categorically stated that DGM and Inquiry Officer has threatened him if he has not said what the DGM, Inquiry Officer and three police persons present there had stated, he will be placed under suspension.
- iii. Mr. Om Parkash, Security Guard has also not stated that the workman has taken liquor or he has misbehaved with ASI Sajjan Singh or with three lady guests. In cross-examination he has said that he had never given any statement to DGM regarding drunken state of Manmohan Singh.
- iv. The statement of ASI Sajjan Singh was not recorded. So much so he was not called to depose in the inquiry. The three lady guests were also not called in the inquiry to record their statement and to prove the charges against the workman.
- v. The footage of CCTV cameras was not produced in the inquiry. No one has said that the CCTV cameras were switched off. No inquiry was made about the switching off the CCTV cameras.

- vi. No one has corroborated the statement of DGM. No one has said that any incident took place on 19.07.2019.
- vii. No witness has stated that the workman has behaved in an irresponsible and in-disciplined manner which is detrimental to the interest of the organization.
- viii. The workman was not medically examined by any independent agency to prove that he was in a drunken state on duty.
- ix. The Inquiry Officer has not appreciated and had given any weightage to the statement of the workman.
- x. The workman was not allowed to cross-examine the state witnesses which is against the rule of natural justice, fair play and equity.
- xi. That in the absence of any corroborated evidence or document. The Inquiry Officer has wrongly proved the charges just to please the management and to save his future assignments.

The punishing authority vide letter No.Persnl/EA-III/5603 dated 27.07.2021 just on the basis of false inquiry report passed an order and awarded the penalty of compulsory retirement from the services of the Corporation with immediate effect. The workman made an appeal dated 24.08.2021 before the Home Secretary, the Appellant Authority against the award of Punishing Authority. The Appellant Authority did not pass any speaking order dismiss the appeal being devoid of merits vide Endst No.11164 dated 09.11.2021. For his reinstatement the workman served upon the management a demand notice. The management neither denied the contents of the demand notice nor took the workman back on duty. The Assistant Labour Commissioner-cum-Conciliation Officer, U.T. Chandigarh was requested for his intervtrial. The Conciliation Officer intervened but the dispute could not be settled within the stipulated period. The punishment of compulsory retirement from services of the Corporation with immediate effect which amounts to termination is illegal, wrong, motivated, against the principle of natural justice and unfair labour practice. The workman remained untriallyed from the date of termination to till date. Prayer is made that the office order No.Persnl/EA-III/5603 dated 27.07.2021 of the Managing Director, CITCO, Chandigarh vide which the workman was compulsory retired from service of the Corporation, be declared as illegal, wrong, unjustified and may be set aside and the workman may be reinstated with full back wages with continuity of service, without any change in the service condition and with all attendant benefits.

3. On notice, management contested the claim statement by filing written statement on 11.10.2023 wherein the management has raised preliminary objection on the ground that claim statement is not maintainable as workman does not fall within the ambit of definition of 'workman' as defined under Section 2(s) of the ID Act. Admittedly, applicant (here-in-after 'workman') was working as Receptionist, Transit Lodge, CITCO, Chandigarh and was drawing salary of ₹ 74,921/- per month. The workman falls under the category of persons excluded from being workmen as is outlined as per Section 2(s)(iii) & (iv) of the ID Act.

4. Further in preliminary submissions it is stated that the workman while working as Receptionist indulged himself in serious act of misconduct for which he was charge-sheeted vide charge sheet dated 15.10.2019. The workman filed his reply dated 04.11.2019 to the above charge sheet which was considered and found unsatisfactory by the disciplinary authority. In order to ascertain the truth, an Inquiry Officer was appointed, who after conducting a fair & proper inquiry into the matter and giving full opportunity to the workman, submitted his inquiry report dated 12.04.2021 to the disciplinary authority. In the inquiry report, the Inquiry Officer concluded that Sh. Manmohan Singh, Receptionist, was under the influence of liquor on 19.07.2019 and misbehaved with guests. The disciplinary authority after going through the inquiry report, inquiry proceedings, statement of witnesses, documents produced before him during the course of the inquiry proceedings and applying his mind dispassionately issued show cause notice of proposed punishment and a copy of the inquiry

report was sent to the workman for furnishing his reply/comments, if any. The workman was also given opportunity of personal hearing to explain his conduct. The workman submitted his reply/comments to the proposed punishment wherein he raised certain points that he is not guilty as projected and requested a lenient view be taken. The Disciplinary Authority after receiving the reply to the show cause notice, hearing the workman during personal hearing on 01.07.2021 and also applying his mind dispassionately to the facts & circumstances of the case, submissions made by the workman in his reply to the show cause notice and during the course of personal hearing, awarded the punishment of compulsory retirement from the services of the Corporation with immediate effect vide order dated 27.07.2021, which is quite commensurate with the gravity of the misconduct committed by the workman. The action of the Disciplinary Authority is legal, just & proper in accordance with law/rules and regulations applicable to its employees. No principle of natural justice has been violated by the management. The workman aggrieved by the order dated 27.07.2021 of Disciplinary Authority filed an appeal before the Chairman-cum-Appellate Authority, CITCO, Chandigarh. The appellate authority after going through the appeal, relevant documents, submissions made by the workman during his personal hearing on 14.10.2021 and applying his mind dispassionately to the entire case found that the workman could not satisfy as to why the inquiry was not held in a fair & proper manner and the enquiry report was not on the basis of record, but he has pleaded that he is innocent and was not involved in the misconduct. He also could not apprise the Appellate Authority that how the action of the Disciplinary Authority is mala fide. Therefore, the Appellate Authority after taking into consideration the entire record of the case, submissions / plea taken by the workman in his appeal and the pleadings made during the course of personal hearing and applying his mind dispassionately reached the conclusion that since no new points have been put forth by the workman, therefore, the appeal filed by the workman is devoid of any merit and deserves to be dismissed. The workman has been given full opportunity to prove his innocence. Accordingly, the appeal of the workman was dismissed by the Appellate Authority. The action of the Appellate Authority in dismissing the appeal of the workman is legal, just, proper and in accordance with law/rules applicable to the employees of the management. The punishment awarded to the workman is quite commensurate with the gravity of the misconduct committed by the workman. No principle of natural justice has been violated by the management. Hence, the present statement of claim deserves to be dismissed on this ground alone.

5. On merits, it is admitted being matter of record that the workman was appointed on 04.04.1998 as Telephone Operator and was deployed at Hotel Shivalik View, Sector 17, Chandigarh a unit run by CITCO. The workman was involved in serious acts of misconduct prejudicial to the interests and reputation of the management for which he was charge sheeted and a fair & proper inquiry into the charges was held and the charges were proved beyond doubt and before taking disciplinary action, full opportunity was given to the workman to prove his innocence but he failed. It is admitted being matter of record that on 06.08.2019 the workman was issued show cause notice No.P&A/EA/6202 dated 06.08.2019 on the subject irresponsible behavior - Show Cause Notice thereof and the workman was placed under suspension on 07.08.2019. It is further admitted being matter of record that on 08.08.2019 the workman demanded copy of the complaint submitted by Mr. Sajjan Kumar - ASI Haryana Police, copy of the complaints submitted by three women along with their names and addresses and CCTV footage of the alleged time of incident which was very much material and required for his defence and reply. The management vide its letter No. Persnl/EA-III/4125 dated 06.09.2019 replied. It is further stated that the record/documents received from DGM, Hotel Shivalik View i.e. copy of complaint of Mr. Sajjan Singh, ASI, Haryana Police was provided to the workman and verbal complaint was made by the women to Sh. Om Parkash, Guard at reception and CCTV cameras were switched off at that relevant time thus no footage of the incident was available. No reply was ever filed by the workman to the show cause notice dated 06.08.2019. It is further admitted being matter of record that on 20.02.2020 the workman was charge-sheeted by the management vide memo No.Persnl/EA-III/6622 dated 15.10.2019 on the charge of having been negligent as he was under the influence of liquor during duty hours at Transit Lodge and was unable to perform his duties and he has misbehaved with ASI of Haryana Police and three women as 19.07.2019. It is denied that the management relied upon the report of DGM, Hotel Shivalik View in order to charge sheet the workman. The workman was issued show cause notice to explain his

position however no reply was filed by the workman to the said show cause notice. Keeping in view the gravity of the matter & misconduct done by the workman with the guests, he was charge sheeted and inquiry proceedings were initiated against the workman as per Rule. The charge sheet and reply submitted by the workman were extensively discussed and threshed by the answering management and thereafter it was resolved to appoint an Inquiry Officer i.e. Mr. Narinder Kumar Wadhawan, IAS (Retd.) and Mr. Gurpreet Singh, Manager (P & A) as Presenting Officer. The workman was given proper and sufficient opportunity to defend his case before the Inquiry Officer. It is a matter of record that copy of the inquiry report was sent to the workman to submit his representation, if any, vide letter No. Persnl/EA- III/590 dated 16.04.2021 of the Corporation and the workman submitted his representation on 06.05.2021. It is denied that the workman was not granted adequate opportunity to cross-examine Mr. Bikram Virk, DGM Hotel Shivalik View. The date of hearing was conveyed to the workman every time in furtherance of which workman participated in the inquiry, however neither the workman cross-examined Mr. Bikram Virk nor lead any evidence to defend the charges against him. The facts that the second witness Sh. Anil Kumar Grover did not corroborate the statement of DGM, statement of Security Guard Om Parkash, status of CCTV cameras, needs no reply being matter of record. The remaining grounds of raising defects on the inquiry are replied being matter of record. It is further replied being a matter of record that punishing authority vide letter No.Persnl/EA-III/5603 dated 27.07.2021 awarded the penalty of compulsory retirement from the services of the Corporation with immediate effect. The management appeared before the Assistant Labour Commissioner and filed detailed reply to the demand notice filed by the workman. The punitive action of measure of penalty of compulsory retirement from services with immediate effect imposed upon the workman is totally justifiable in view of the facts & circumstances and detailed inquiry in which full opportunity was granted to the workman as per the principles of natural justice. Rest of the averments of claim statement are denied as incorrect. Prayer is made that the present claim statement may be dismissed.

6. Workman filed rejoinder wherein the contents of the written statement, except admitted facts, are denied as wrong and averments of claim statement are reiterated.

7. From the pleadings of parties, following issues were framed vide order dated 14.02.2024 :-

1. Whether the office order No.Persnl/EA-III/5603 dated 27.07.2021 passed by the Managing Director, CITCO, Chandigarh is illegal ? OPW
2. If issue No.1 is proved in affirmative, whether the workman is entitled to reinstatement with continuity of service along with full back wages ? OPW
3. Whether the workman does not fall within the definition of 'workman' as defined under Section 2(s) of the ID Act ? OPM
4. Relief

8. In evidence, workman Manmohan Singh examined himself as AW1 and tendered his affidavit Exhibit 'AW1/A'. On 16.08.2024, Learned Representative for the workman closed evidence in affirmative.

9. On the other hand, management examined MW1 Seema Kumari - Senior Assistant, P&A Branch, CITCO who tendered his affidavit / Exhibit 'MW1/A' along with documents Exhibit 'M1' to Exhibit 'M3'.

Exhibit 'M1' is authority letter dated 03.09.2024 issued in favour of Seema Kumari by Managing Director, CITCO.

Exhibit 'M2' is complete attested copy of inquiry file of workman Manmohan Singh (consisting of pages No.1 to 99).

Exhibit 'M3' is copy of grounds of appeal before the Appellate Authority.

10. On 04.11.2024, Learned Representative for the management closed oral evidence and on 13.12.2024 closed documentary evidence.

11. I have heard the arguments of Learned Representatives for the parties and perused the judicial file. My issue-wise findings are as below :-

Issue No. 3 :

12. Onus to prove this issue is on the management.

13. This issue is taken up first as it goes to the root of the case.

14. Learned Representative for the management argued that workman hold the post of Receptionist at Transit Lodge, CITCO, Chandigarh and drawing as salary of ₹ 74,921/- per month which exceeds the statutory limit of ₹ 10,000/- per month for employees working in the supervisory capacity. The duties performed by the workman fall under the managerial and administrative capacity as outlined in Section 2(s)(iii) & (iv) of the ID Act. To support his argument Learned Representative for the management referred the judgment of Hon'ble Supreme court of India titled as *H. R. Adyanthaya Versus Sandoz (India) Ltd., (1994)5 SCC 737*.

15. On the other hand, Learned Representative for the workman argued that the workman was working on the post of Receptionist and drawing ₹ 53,283/- per month as wages but he has no administrative, managerial or supervisory duties to discharge. To support his argument Learned Representative for the workman referred judgment titled as *Anand Regional Coop. Oil Seedsgrowers' Union Limited Versus Shailesh kumar Harshadbhai Shah*, reported in *2006 SCC (L&S) 1486*.

16. To my opinion, as far as amount of monthly wages is concerned, the management being employer is supposed to be in possession of the service record of the workman including the wage record. In the present case, the management did not produce on record the service record or wage record of the workman to contradict the workman's plea that he was drawing monthly salary of ₹ 53,283/-.

17. In this case there is no evidence showing that the workman was competent to take any disciplinary action against any employee or he was competent to grant leave, promotion, increment to any employee or that any employee was working under his supervisor. The law laid down in the judgment *(1994)5 SCC 737 (supra)* referred by Learned Representative for the management is well recognized by this Court but the ratio of the ruling is not applicable to the facts of the present case. Besides, as per the requirement of Section 2(s)(iv) is condition of supervisory capacity and drawing wages exceeding Ten Thousand Rupees must co-exist and it is not that either of these two conditions should exist. The law laid down in the judgment *2006 SCC (L&S) 1486 (supra)* referred by Learned Representative for the workman is applicable to the facts of the present case to an extent wherein Hon'ble Supreme Court of India has held that primary duties performed by an employee are more important to ascertain whether he is a 'workman' or not and the designation of the employee or the name assigned to his class should not be given undue importance and mere existence of subordinates whose work is required to be supervised is a sine qua non to prove supervisory work and the employee must have authority to initiate departmental proceedings against the sub-ordinates.

18. Accordingly, this issue is decided against the management and in favour of the workman.

Issues No. 1 & 2 :

19. Both these issues are taken up together being interconnected and in order to avoid repetition of discussion.

20. Onus to prove both these issues is on the workman.

21. Under these issues, workman Manmohan Singh stepped into witness box as his own witness and vide his affidavit Exhibit 'AW1/A' deposed the averments of claim statement in toto which are not reproduced here for the sake of brevity.

22. In order to controvert the claim of the workman, Learned Representative for the management referred the testimony of MW1 Seema Kumari who vide her affidavit Exhibit 'MW1/A' deposed the entire contents of the written statement which are not reproduced here in order to avoid repetition. To support the oral version of MW1, Learned Representative for the management referred documents Exhibit 'M1' to Exhibit 'M3'.

23. From the oral as well as documentary evidence led by the parties, it comes out that undisputedly the workman was employed as Receptionist on 04.04.1998 and remained in continuous & uninterrupted service of the management up to 26.07.2021. This work has completed continuous service of 240 days in 12 calendar months preceding 27.07.2021 when the workman was compulsory retired from service vide letter dated 27.07.2021. The workman has challenged the letter dated 27.07.2021 being illegal on the ground that the workman is terminated on the basis of inquiry conducted by the Inquiry Officer Mr. Narinder Kumar Wadhawan. The inquiry was full of defects on following grounds :-

- i. The workman was not allowed to cross-examine Mr. Bikram Virk, DGM Hotel Shivalik View who deposed in the inquiry on 07.09.2020. The DGM did not said anything about the alleged misbehave with three lady guests by the workman. Therefore, the signatures of workman were not obtained on the statement of DGM. The Inquiry Officer also did not sign the statement of DGM in token of his presence and make the statement.
- ii. The second witness Sh. Anil Kumar Grover did not corroborate the statement of DGM. He has not said that the workman was in a drunken state and had misbehaved with ASI Sajjan Singh and three women guests. He has stated that ASI Sajjan Singh had threatened Manmohan Singh. He has further stated that DGM has said he will teach a lesson to Manmohan Singh. He has categorically stated that DGM and Inquiry Officer has threatened him if he has not said what the DGM, Inquiry Officer and three police persons present there had stated, he will be placed under suspension.
- iii. Mr. Om Parkash, Security Guard has also not stated that the workman has taken liquor or he has misbehaved with ASI Sajjan Singh or with three lady guests. In cross-examination he has said that he had never given any statement to DGM regarding drunken state of Manmohan Singh.
- iv. The statement of ASI Sajjan Singh was not recorded. So much so he was not called to depose in the inquiry. The three lady guests were also not called in the inquiry to record their statement and to prove the charges against the workman.
- v. The footage of CCTV cameras was not produced in the inquiry. No one has said that the CCTV cameras were switched off. No inquiry was made about the switching off the CCTV cameras.
- vi. No one has corroborated the statement of DGM. No one has said that any incident took place on 19.07.2019.
- vii. No witness has stated that the workman has behaved in an irresponsible and in-disciplined manner which is detrimental to the interest of the organization.
- viii. The workman was not medically examined by any independent agency to prove that he was in a drunken state on duty.
- ix. The Inquiry Officer has not appreciated and had given any weightage to the statement of the workman.
- x. The workman was not allowed to cross-examine the state witnesses which is against the rule of natural justice, fair play and equity.

- xi. That in the absence of any corroborated evidence or document. The Inquiry Officer has wrongly proved the charges just to please the management and to save his future assignments.

24. On the other hand, it is argued Learned Representative for the management that a detailed and impartial inquiry was conducted against the workman. The workman was charge sheeted vide charged sheet dated 15.10.2019. The workman filed his reply dated 04.11.2019 to the above charge sheet which was considered and found unsatisfactory by the disciplinary authority. In order to ascertain the truth, an Inquiry Officer was appointed, who after conducting a fair and proper enquiry into the matter, giving full opportunity to the workman submitted his enquiry report dated 12.04.2021 to the Disciplinary Authority. In the inquiry report, the Inquiry Officer concluded that Sh. Manmohan Singh, Receptionist, was under the influence of liquor on 19.07.2019 and misbehaved with guests. The disciplinary authority after going through the enquiry report, enquiry proceedings, statement of witness, documents produced before him during the course of the inquiry proceedings and applying his mind dispassionately issued show cause notice of proposed punishment and a copy of the enquiry report was sent to the workman for furnishing his reply/comments, if any. The workman was also given opportunity of personal hearing to explain his conduct. The workman submitted his reply/comments to the proposed punishment wherein he raised certain points that he is not guilty as projected and requested a lenient view be taken. The disciplinary authority after receiving the reply to the show cause notice, heard the workman during personal hearing on 01.07.2021 and also applied his mind dispassionately to the facts and circumstances of the case, submissions made by the workman in his reply to the show cause notice and during the course of personal hearing and awarded the punishment of compulsory retirement from the services of the Corporation with immediate effect, was imposed upon the workman vide order dated 27.07.2021 which is quite commensurate with the gravity of the misconduct committed by the workman. The action of the disciplinary authority in awarding the punishment is legal, just proper in accordance with law/rules and regulations applicable to its employees. No principle of natural justice has been violated by the management. Moreover, the workman has admitted these facts in his cross examination. Learned Representative for the workman has referred cross-examination of AW1 wherein he admitted as correct that he had received the copy of the complaint filed by A.S.I. Sajjan Singh which was filed against him and voluntarily stated that he had filed reply to said complaint. AW1 further admitted as correct that CCTV footage of the incident relating to said complaint was not available as CCTV Cameras were not working on that day. AW1 admitted as correct that he was issued a show-cause notice dated 06.08.2019 by the management on ground of irresponsible behaviour and copy of same is Exhibit 'M1'. AW1 further admitted as correct that vide office order dated 07.08.2019 his services were suspended by the department-management and copy of same is Exhibit 'M2' and he was charge-sheeted vide order dated 15.10.2019 and copy of same is Exhibit 'M3'. AW1 stated that he had filed the reply dated 04.11.2019 to the charge-sheet dated 15.10.2019 and admitted as correct that an Inquiry Officer was appointed by the management and he (AW1) joined the inquiry proceedings. AW1 further admitted as correct that he has been supplied the copy of inquiry report and he had filed reply/comments to the inquiry report and he was supplied copy of the punishment order.

25. Learned Representative for the management further argued that the workman aggrieved by the order dated 27.07.2021 of disciplinary authority filed an appeal before the Chairman-cum-Appellate Authority, CITCO, Chandigarh. The Appellate Authority after going through the appeal, relevant documents, submissions made by the workman during his personal hearing on 14.10.2021 and applying his mind dispassionately to the entire case found that the workman could not satisfy as to why the enquiry was not held in a fair and proper manner and the enquiry report was not on the basis of record, but he has pleaded that he is innocence and was not involved in the misconduct. He also could not apprise the Appellate Authority that how the action of the Disciplinary Authority is malafide. Therefore, the Appellate Authority after taken into consideration the entire record of the case, submissions/plea taken by the workman in his appeal and the pleadings made during the course of personal hearing and applying his mind dispassionately reached the conclusion that since no new

points have been put forth by the workman, therefore, the appeal filed by the workman is devoid of any merit and deserves to be dismissed. Learned Representative for the workman has referred cross-examination of AW1 wherein he admitted as correct that he had filed an appeal against the punishment order and the Appellate Authority called him for personal hearing.

26. From the arguments advanced by Learned Representative for the parties, it comes out that during service tenure the workman was issued show cause notice No.P&A/E-A-III/6202-05 dated 06.08.2019 wherein it is alleged that the workman under the influence of liquor while on duty on 19.07.2019 in morning shift, responded very rudely and misbehaved with the police personnel Shri Sajjan Kumar - ASI, Haryana Police and with other three women, who had come for booking a room and left disappointed without check-in, thus, causing loss to CITCO and the workman was not in a position to perform duty and created nuisance in front of the premises of Transit Lodge. DGM HSV had called him but he left the premises without intimation to his superiors. The workman was directed to file reply to show cause notice within 5 days from the date of issuance of the show cause notice and vide letter No.P/E-A-III/393 dated 07.08.2019 / Exhibit 'M2', the workman was placed under suspension with immediate effect and during suspension his Head Quarter was fixed at P&A Branch, 2nd Floor, Head Office, CITCO, Chandigarh. On denial of charges of show cause notice the management vide office order dated 20.07.2020 (part of inquiry file) appointed Shri Narinder Kumar Wadhawan, IAS (Retd.) as Inquiry Officer to conduct inquiry into the charges levelled against the workman Manmohan Singh (under suspension) and Shri Gurpreet Singh - Manager (P&A), Head Office, CITCO was appointed as Presenting Officer.

27. As per statement of imputation, Manmohan Singh - Receptionist, Transit Lodge, CITCO, reported on duty in morning shift on 19.07.2019 was under the influence of liquor and he was not in a position to perform his duty. DGM (HSV) called him but he responded very rudely. On speaking to the Night Duty Guard, it was confirmed that Manmohan Singh, Receptionist reported in the morning shift and was drunk. He also misbehaved with and abused ASI Sajjan Kumar, Haryana Police and as informed by him he has misbehaved with 3 women, who come to took room but left disappointed without check-in, thus causing loss to CITCO and from the investigation report of DGM (HSV) it was established that Sh. Manmohan Singh, Receptionist was allegedly under the influence of liquor on 19.07.2019 during working hours at Transit Lodge. The memorandum dated 15.10.2019 is accompanied with Annexure - I i.e. Statement of Articles of charge, Annexure - II i.e. statement of Imputation of misbehave / misconduct in support of article of charge, Annexure - III i.e. List of documents by which the charges are proposed to be sustained i.e. report of DGM, HSV, Annexure - IV i.e. List of witnesses by which the article of charge, are proposed to be sustained i.e. (1) Deputy General Manager, HSV, CITCO; (2) Anil Kumar Grover, Telephone Operator, Transit Lodge, CITCO; (3) Sajjan Kumar, ASI Haryana Police.

28. As per inquiry report, in the inquiry proceedings, Presenting Officer examined witnesses Bikram Singh Virk, Deputy General Manager, Hotel Shivalikview (DGM, HSV) and Anil Grover, Telephone Operator, Transit Lodge in physical mode. Remaining enquiry proceedings are stated to have been conducted online, using internet. Through online mode Bikram Singh Virk, DGM (HSV) and Anil Grover - Telephone Operator were re-examined on the request of Gurpreet Singh - Presenting Officer. In the entire inquiry report the ground to re-examine Bikram Singh Virk - DGM (HSV) and Anil Grover - Telephone Operator is not mentioned. It is also not mentioned that before allowing the request of re-examination the above 2 witnesses, notice of the same was given to the delinquent / charged official or not. Moreover, ASI Sajjan Singh has neither been examined nor given up. There is no proof of the identity of ASI Sajjan Singh. His belt number or the then place of posting is not mentioned in any of the documents attached with inquiry file. Further on Presenting Officer's request, Om Parkash - Security Guard was examined who is not named in the list of witnesses. Anil Grover on re-examination and Om Parkash - Security Guard did not support the allegation of charge-sheet. When the witness Anil Grover is re-examined on the request of Presenting Officer, without providing any opportunity to the delinquent official to contest the request, then there is no reason to disbelieve the version of Anil Grover deposed by him on re-examination. The position would have been certainly different, had

Anil Grover - Telephone Operator been recalled for re-examination on the request of delinquent official, but here it is not the case. Anil Grover in his re-examination (recorded on 16.09.2020) deposed as under :-

"Sh. Manmohan Singh, Receptionist was being threatened by ASI, Sh. Sajjan Kumar. Mr. Manmohan Singh, called upon me as he did not able to perform the duty and because Mr. Sajjan Singh, ASI was putting pressure upon him. He was the friend of Sh. Bikram Singh Virk, DGM, HSV. So after hearing his call, I rushed to the hotel and intervene into the matter. Then I asked Mr. Manmohan to leave the hotel as he was not feeling well. He seemed to be under very pressure. Then we left the hotel. After that DGM, HSV came hotel alongwith the Security Supervisor. Then we said I will teach a lesson to Mr. Manmohan for making entry in the hotel. Mr. Virk put me under pressure to write a complaint against Mr. Manmohan that he left the hotel without handing over the charges to you. After I wrote simple letter and tell Mr. Virk, DGM to rectify that letter and asked me to put my signature on the dotted line. I had written that Mr. Manmohan left the hotel with submission of leave. Mr. Virk through the leave in the dustbin and called upon the Manager Accounts not to pay the salary to Mr. Manmohan for this particular day and day before this. After that Mr. Virk, DGM again called Mr. Sajjan from the official phone and said now will dare to refuse room without entry. I am the Head of this Deptt. and I will teach them how to work here. Then DGM directed me not to allow Mr. Manmohan enter into the hotel. After some time, I received a letter from the Inquiry Officer to appear before you. As on that particular day I don't want to appear and make wrong statement before the Inquiry Officer, so I tried to ignore it as I am not prepared to give my false statement to frame up an innocent person of the department. Mr. Manmohan Singh is a very weak person. He was made under pressured. Otherwise Mr. Virk also tried to put pressured upon me. On that when I was not ready to come, Mr. Virk called upon me. I declined him politely as I am alone then he directed our Manager Mr. Pawan Kapoor to sit on the seat of Mr. Grover and send him to Head Office. When I reach at Hotel, our inquiry officer tried to threaten me in case you have not spoken to taste of Mr. Virk, DGM, they can put you under suspension. Mr. Sajjan, ASI along with three police officials of Chandigarh Police was also available on that particular day. They put pressure upon me and again I signed on my statement. That statement was not valid but our inquiry officer said that statement is valid and asked to write Steno to something like that. Co was not available for cross examination. No cross-examination required."

29. Furthermore, MW1 in cross-examination admitted as correct that workman was not given opportunity to cross-examine Bikram Singh DGM when his statement was recorded on 07.09.2020. As per the inquiry file, witness Om Parkash in his statement recorded on 07.10.2020 deposed that on 19.07.2017 Manmohan Singh - Receptionist, was in morning duty. Manmohan Singh was not keeping good health. Manmohan Singh went to office and sat there. He asked him whether he was not feeling well. He replied that he was not feeling well. He asked him whether he needed his service, Manmohan Singh replied he could go. Thereafter, he went home after completion his duty (witness's duty). When put to cross-examination Om Parkash stated that there is nothing regarding taking of liquor by Manmohan Singh on duty. He further admitted as correct that DGM was present in the Transit Lodge on that day. He has never given any statement to DGM regarding drunk state of Manmohan Singh. No question was asked by Manmohan Singh, however, opportunity was given for cross-examination.

30. From the aforesaid version of witness Anil Grover and Om Parkash recorded in inquiry proceedings, nothing incriminating has come on record against the delinquent official. Moreover, there is no medical evidence / MLR of the delinquent official to corroborate the allegation that he was under the influence of liquor. There is no complaint from alleged 3 lady visitors. There is no statement of ASI Sajjan Singh.

31. Further as per statement dated 26.10.2020 of Sh. Anil Kumar Grover (one of the prosecution witness in inquiry proceedings) has been appointed as defence assistant in the inquiry to cross-examine, argue, filing resume and in short for all purposes and intents of the inquiry. There is no document on record showing that the delinquent official requested to appoint prosecution witness Anil Kumar Grover as his defence representative. The witness who has appeared and examined himself as prosecution witness against the delinquent official in an inquiry, how it is expected from him that he will fairly defend the case of delinquent official. Appointing prosecution witness as defence representative by the Inquiry Officer of it's own, amounts to violation of principle of natural justice.

32. Further in the inquiry proceedings complaint dated 19.07.2019 of one Manoj Kumar of Axis Bank is relied upon wherein he reported to the DGM (HSV) that yesterday on 18.07.2019 in the morning he came to receive cash and then Cashier was under the influence of liquor and he faced difficulty in receiving cash etc. Mr. Manmohan Singh consumed lot of time in delivery of cash to him (45 minutes). He was not able to stand even. To my opinion, as far as statement dated 19.07.2019 of Manoj Kumar is concerned, there is no explanation in the entire inquiry file that the workman was given an opportunity to cross-examine Manoj Kumar before relying upon his complaint. The delinquent official has not been provided with any opportunity to controvert / defend the allegations levelled in the written complaint dated 19.07.2019 of Manoj Kumar of Axis Bank. MW1 when put to cross-examination stated that she cannot tell the reason for placing on record of inquiry file, the written complaint dated 19.07.2019 addressed from Manoj Kumar, Axis Bank to DGM Hotel Shivalikview. The argument advanced by Learned Representative for the management that in the inquiry report no reliance is placed upon the complaint of Manoj Kumar of Axis Bank, is devoid of merits as in para 14 & 15 of the inquiry report dated 01.04.2021 the observation is given as below :-

"14. Sh. Virk, DGM, stated that Sh. Manmohan Singh was under the influence of liquor and he did not handover the charge to Sh. Anil Grover but left the place of his duty. Sh. Manmohan Singh misbehaved with Sh. Sajjan Kumar, ASI and other guests. There is also a report on file that evidences the misconduct of Sh. Manmohan Singh. This is a letter on file written by Sh Manoj Kumar, an employee of Axis Bank and this letter also reveals that Sh. Manmohan Singh was under the influence of liquor and that caused him undue harassment for collecting cash. This is further corroboration of misconduct of Sh. Manmohan Singh.

15. I have considered the position explained in the foregoing paragraphs and am satisfied that Sh. Manmohan Singh, Receptionist was under the influence of liquor on 19.07.2019 and misbehaved with the guests. The charge levelled against him in the chargesheet are duly proved."

33. From the aforesaid findings of inquiry report, it is sufficiently proved on record that weightage is given to the written complaint dated 19.07.2019 of Manoj Kumar of Axis Bank, whose name is not cited in the list of witnesses and whose complaint is not mentioned in the list of relied upon documents, which is violation of the principle of natural justice.

34. Further, there is one cross-examination recorded on 24.09.2020 (cross-examination conducted by Presenting Officer Gurpreet Singh). From perusal of cross-examination dated 24.09.2020, it cannot be ascertained to whom it relates as there is no name of the witness, who has been cross-examined.

35. In para 12 of inquiry report, the Inquiry Officer has mentioned that number of letters were written to Sh. Manmohan Singh to attend the inquiry. There are also cell phone messages sent to him for appearing before the Inquiry Officer but he preferred not to attend the inquiry. To my opinion, had the delinquent

official was absent from the inquiry proceedings then what restrained the Inquiry Officer to proceed him ex-parte ? There are no ex-parte proceedings and inquiry is shown to have been conducted in the presence of the delinquent official.

36. All the facts & circumstances above would suggestion that inquiry proceedings suffered from several procedural defects which have certainly caused prejudice to the interest of the delinquent official. There is no evidence of the management in the present case, which could justify the order of dismissal passed against the workman. The sole witness MW1 examined by the management in this case when put to cross-examination stated that she does not know who complained to DGM, that workman had misbehaved with three ladies. She cannot tell as to who were the three ladies who allegedly came to the Transit Lodge at ISBT, Sector 17, Chandigarh. As per record medical examination of Manmohan Singh was not got conducted whether he had consumed liquor or not. MW1 admitted as correct that on 13.03.2020 the workman was absent in the inquiry proceedings and the statement dated 13.03.2020 was recorded in the absence of the workman.

37. In view of the discussion made above, the punishment order bearing No.Persnl./EA-III/5603 dated 27.07.2021 based on the defective inquiry could not sustain and is hereby set aside. Therefore, the workman is held entitled to reinstatement with continuity of service and 50% back wages from the date of punishment order dated 27.07.2021 till the date of this Award.

38. Accordingly, both these issues are decided in favour of the workman and against the management.

Relief :

39. In the view of foregoing finding on the issues above, this industrial dispute is allowed. The punishment order bearing No.Persnl./EA-III/5603 dated 27.07.2021 is hereby set aside. The workman is held entitled to entitled to reinstatement with continuity of service and 50% back wages from the date of punishment order till the date of this Award. The management is directed to comply with the Award within three months from the date of publication of the same in Government Gazette failing which the management shall be liable to pay interest at the rate 8% per annum on the amount of consequential benefits from the date of this Award till it's actual realisation. Appropriate Government be informed. Copy of this Award be also sent to Learned District Judge, Chandigarh in view of Sub-section 10 of Section 11 of the Industrial Disputes (Amendment) Act, 2010 for onward transmission of the same to concerned Civil Court. File be consigned to the record room.

(Sd.) . . . ,

(JAGDEEP KAUR VIRK)
PRESIDING OFFICER,
Industrial Tribunal & Labour Court,
Union Territory Chandigarh.
UID No. PB0152

Dated : 13.12.2024.

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT**Notification**

The 28th January, 2025

No. 490042-HII(2)-2024/1507.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. **38/2022** dated **23.12.2024** delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

ANGAD YADAV S/O SH. MUNI LAL YADAV, H.NO. 586, HALLO MAJRA, CHANDIGARH.
(Workman)

AND

M/S SURYA FASTENER, PLOT NO. 215, PHASE - 1, INDUSTRIAL AREA, CHANDIGARH
THROUGH ITS PARTNER/PROPRIETOR. (Management)

AWARD

1. Angad Yadav, workman has presented industrial dispute under Section 2A(2) of the Industrial Disputes Act, 1947 (*here-in-after in short called 'ID Act'*).

2. Briefly stated the averments of claim statement are that the claimant-workman (*here-in-after 'workman'*) was appointed by the respondent-management (*here-in-after 'management'*) as Operator in the year 2002. The workman was covered under ESI scheme on 01.03.2015 and was allotted insurance No.9466552. The workman remained in the continuous employment up to 30.06.2021, when his services were illegally & wrongly terminated by refusing of work. The workman was drawing ₹ 15,000/- per month as wages. On 30.06.2021, the management got workman's signature on blank paper on the pretext that his wages for the month of May & June, 2021 onwards will be paid through bank and for opening of account, his signatures are required. The workman being illiterate person and in good faith signed the blank papers. The management after obtaining signatures refused work to the workman. The management only transferred ₹ 9,000/- in the account of the workman. The refusal of work which amounts to termination is retrenchment under Section 2(oo) of the ID Act. The management has also violated Section 25F of the ID Act. No charge sheet was issued, no inquiry was held and workman was not paid retrenchment compensation at the time of termination. Violation of the same makes the termination void. For his reinstatement the workman served upon the management a demand notice dated 03.08.2021. The management neither denied the contents of the demand notice nor took the workman back on duty. The Assistant Labour Commissioner-cum-Conciliation Officer, U.T. Chandigarh was requested for his intervention. The management did not appear before the Conciliation Officer on any date fixed for settlement. The termination is illegal, wrong, motivated, against the principle of natural justice and unfair labour practice. The workman remained un-employed during the period i.e. from the date of termination to till date. Prayer is made that the workman may be reinstated with continuity of service along with full back wages, without any change in his service condition.

3. The management contested the claim statement by filing written statement on 23.11.2022, wherein preliminary objections are raised on the ground that present reference is not maintainable. The workman has not approached the Court with clean hands and concealed the material facts from this Court. No cause of action has accrued in favour of the workman because neither his services were terminated nor the

management refused him work in it's concern. The true facts are that the workman himself left the job w.e.f. 30.06.2021. It was as per asking of the workman that his full & final account was settled by the management which was duly received and acknowledged by the workman without any protest. Hence, raising of present industrial dispute by the workman after receiving all his legitimate dues from the management is un-warranted and uncalled for. The present industrial dispute is raised by the workman with sole motive to extract money from the management. The workman joined with the management in the month of April, 2010 and not in the year 2002. The workman has relied upon false pleading. Moreover, when the workman has voluntarily abandoned the service, therefore he is not entitled to any relief.

4. Further, on merits, it is admitted to the extent that workman remained in the service of management up to 30.06.2021 and was covered under the ESI scheme. The workman himself admitted that the management has transferred amount in his account. The management has not violated any provision of the ID Act. The workman has himself abandoned the job, thus Section 2(oo) and Section 25F of the ID Act are not attracted. Further similar stand is taken as taken in the preliminary objections and the same is not reproduced here to avoid repetition. Rest of the averments of claim statement are denied as wrong and prayer is made that present reference may be dismissed with exemplary costs.

5. The workman filed rejoinder, wherein the contents of written statement except admitted facts are denied as wrong and averments of the claim statement are reiterated.

6. From the pleadings of the parties, following issues were framed vide order dated 11.01.2023:-

1. Whether the termination of the workman is illegal ? OPW
2. If issue No.1 is proved in affirmative, whether the workman is entitled to reinstatement with continuity of service, full back wages and all other consequential benefits ? OPW
3. Whether the present reference is not maintainable ? OPM
4. Relief.

7. In evidence, workman Angad Yadav examined himself as AW1 and tendered his affidavit Exhibit 'AW1/A'. On 16.08.2024 Learned Representative for the workman closed evidence in affirmative.

8. On the other hand, the management examined MW1 Deepak - Clerk, M/s Surya Fasteners, who tendered his affidavit Exhibit 'MW1/A' along with documents Exhibit 'M1' to Exhibit 'M3'.

Exhibit 'M1' is self-attested copy of aadhar card of Deepak Kumar.

Exhibit 'M2' is authority letter dated 25.09.2024 issued in favour of Deepak Kumar - Clerk by Proprietor.

Exhibit 'M3' is full and final receipt dated 12.07.2021 (original was seen & returned).

9. On 14.11.2024 Learned Representative for the management closed oral evidence and on 23.12.2024 closed documentary evidence.

10. I have heard the arguments of Learned representatives for the parties and perused the judicial file. My issue-wise finding are as below :-

Issues No. 1 & 2 :

11. Both these issues are taken up together being inter-connected and in order to avoid repetition of discussion.

12. Onus to prove both these issues is on the workman.

13. Under these issues, the workman examined himself as AW1 and vide his affidavit Exhibit 'AW1/A' deposed the averments of claim statement in toto, which are not reproduced here for sake of brevity. In cross-examination AW1 brought into evidence copy of salary slip of May & June (year not mentioned) as Mark 'A' and photocopy of ESI identity card of Angad Yadav bearing Insurance No.9466552 as Mark 'B'.

14. To controvert the workman's evidence, Learned Representative for the management referred testimony of MW1 Deepak - Clerk, M/s Surya Fasteners, who vide his affidavit Exhibit 'MW1/A' deposed that he is working as a Clerk with the management w.e.f. 2010 and has been authorised by the management to depose on its behalf before this Court. He is fully conversant with the facts of the present case. Copy of his aadhar card is Exhibit 'M1' and authority letter is Exhibit 'M2'. In his remaining testimony MW1 deposed the entire contents of written statement which are not reproduced here to avoid repetition of discussion.

15. From the oral as well as documentary evidence led by the parties, it comes out that relationship of employer-employee is admitted between management and workman. So far tenure of service is concerned, Learned Representative for the workman argued that the workman was appointed as Operator in May, 2002 whereas Learned Representative for the management argued that the workman was appointed in April, 2010. To my opinion, the date of appointment can be proved from the appointment letter issued by the employer-management or from the service record of the worker-employee, which the employer is bound to maintain. The management did not produce appointment letter of the workman. In the present case, MW1 when put to cross-examination (recorded on 08.10.2024) stated that he does not know whether the ESI number of the workman is 9466552. MW1 further stated that the workman is covered under the ESI scheme. He does not know whether the workman is covered under the ESI scheme w.e.f. 01.03.2005 as he (deponent) joined the management in the year 2010. He can check with the Proprietor of the management regarding ESI record, payment of wages, attendance record for the period 2005 to 2010 of the workman. Cross-examination of MW1 partly recorded on 08.10.2024 was deferred for producing the ESI record, payment of wages, attendance record for the period 2005 to 2010 of the workman. MW1 when appeared for his remaining cross-examination on 21.10.2024 stated that today he has not brought the record of ESI, payment of wages, attendance record for the period 2005 to 2010 of the workman as the same is not traceable being old record. The aforesaid version of MW1 would suggest the management has withheld the best evidence on the pretext of old record being not traceable. Thus, there is no reason to disbelieve that the workman remained in the employment of the management w.e.f. May, 2002 up to 30.06.2021.

16. Learned Representative for the workman argued that on 30.06.2021 the management obtained signature of the workman on a blank paper on the pretext of opening his bank account for payment of wages for the month of May and June, 2021 onwards. The workman in good faith signed the blank paper. The management transferred only ₹ 9,000/- in his bank account and then verbally refused him work without making compliance of the condition laid down under Section 25F of the ID Act. The aforesaid argument advanced by Learned Representative for the workman is devoid of merits because workman / AW1 when put to cross-examination stated that his signatures were not obtained on any document on 30.06.2021. In his cross-examination the workman set up new plea that on 07.07.2021, he was called by the management, when his dues were paid against obtaining his signatures on some documents. AW1 in his cross-examination further admitted as correct that he has not mentioned in his statement of claim and affidavit about obtaining his signatures on 07.07.2021 by the management. From the aforesaid version of AW1 / workman, the workman's own plea that on 30.06.2021 the management obtained his signature on blank paper stands falsified and workman's plea that his signatures were obtained on 07.07.2021 on some documents by the management is not admissible being beyond pleadings. Even otherwise the workman used to put his signatures in Hindi language. Therefore, it cannot be assumed

that workman is illiterate. No literate person or man of ordinary prudence would sign any blank document or writing without going through the contents thereof.

17. Learned Representative for the workman argued that on 30.06.2021, the services of the workman were terminated with verbal order w.e.f. 01.07.2021. On the other hand, Learned Representative for the management argued that the workman has worked up to 30.06.2021. Thereafter, he abandoned the job and settled his full & final dues by making a writing / Exhibit 'M3' on 12.07.2021 under his signature with date. To my opinion, the aforesaid plea of the management stands proved from workman's own admission in his cross-examination wherein AW1 admitted as correct that the management has paid all his dues up to 30.06.2021 and volunteered stated that his two months salary was withheld by the management. The above volunteer statement of AW1 also stands falsified from his cross-examination wherein he admitted as correct that the management has transferred a sum of ₹ 9,000/- in his account as per para No.3 of his statement of claim. As per Exhibit 'M3' executed on 12.07.2021, the workman has certified that he has nothing outstanding against the management including salary.

18. The discussion above would prove the management's plea that workman had left the job of his own with the management and settled all his pending dues against writing dated 12.07.2021 / Exhibit 'M3'. Consequently, the provisions of Section 25F of the ID Act is not attracted.

19. Accordingly, both these issues are decided against the workman and in favour of the management.

Issue No. 3 :

20. Onus to prove this issue is on the management.

21. Learned Representative for the management did not press this issue during the course of arguments.

22. Accordingly, this issue is decided against the management and in favour of the workman.

Relief :

23. In the view of foregoing finding on the issues No.1 & 2 above, this industrial dispute is declined. Appropriate Government be informed. File be consigned to the record room.

(Sd.) . . . ,

(JAGDEEP KAUR VIRK)
PRESIDING OFFICER,
Industrial Tribunal & Labour Court,
Union Territory Chandigarh.
UID No. PB0152

Dated : 23.12.2024.

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT**Notification**

The 28th January, 2025

No. 490612-HII(2)-2024/1491.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. **13/2024** dated **29.11.2024** delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

RAJWANTI W/O SH. NIRATPAL R/O HOUSE NO. 2602/2, RAM DARBAR, PHASE -2, U.T. CHANDIGARH. (Workman)

AND

1. THE BRANCH MANAGER, STATE BANK OF INDIA BRANCH, SECTOR 19-C, U.T. CHANDIGARH.

2. M/S CLASSIC HOUSEKEEPING & MAINTENANCE SERVICE (THROUGH ITS MANAGER), HOUSE NO.5215, U.T. CHANDIGARH. (Management)

AWARD

1. Rajwanti, workman has presented industrial dispute under Section 2A(2) of the Industrial Disputes Act, 1947 (*here-in-after in short called 'ID Act'*).

2. Briefly stated the averments of claim statement are that the workman was appointed and deployed as a Sweeper. Her last drawn wages were ₹ 11,960/- per month. The workman was performing her duty as Sweeper in the establishment and therefore, falls within the definition of 'workman' under Section 2(s) of the ID Act. The workman was performing her duties to the entire satisfaction of management No. 1 under their supervision as the officials of management No.1 used to mark the presence of all workers. The workman has worked with the management No.1 Branch Sector 19-C, Chandigarh since 08.07.2019. The workman was earlier appointed by a contractor namely M/s Gupta Services for a salary to the tune of ₹ 6,000/- per month. The salary paid by the contractor was always lump sum amount and they never told the workman the reason for the same. The first salary received by the workman was to the tune of ₹ 4,600/- per month. The next month the contractor paid the workman a sum to the tune of ₹ 6,000/- per month. Then, again an amount to the tune of ₹ 6,250/- per month. On 04.12.2020, a sum to the tune of ₹ 7000/- was paid to the workman. Then on 02.02.2021, a sum to the tune of ₹ 7,500/- was paid to the workman as salary. On 09.01.2023, a sum of ₹ 11,960/- was paid to the workman as salary. On 03.03.2023, new management i.e. management No. 2, took charge of the maintenance of management No. 1. The workman was given an ID card. On 03.04.2023, the workman, took leave from work as she was suffering from fever and therefore, could not attend work. The workman had informed the Branch Manager the reason for her not attending work that day due to ill health. The management No. 2 also called the workman to enquire about her and had no problem with her being on leave that day due to ill health. On 05.04.2023, when the workman reached the premises of management No. 1, the workman was surprised to find that management No. 2 had appointed another worker in her place. The workman was refused work and salary by management No. 1 & 2 without issuing any notice which under Section 2(oo) of the ID Act which amounts to retrenchment. The workman had worked for extra hours whenever there was shortage of staff in the establishment. The work & conduct of the workman was satisfactory during the entire period of her service. The termination by management No. 1 & 2 is illegal and arbitrary and in contravention of the provisions of the ID Act. It is also in violation to principle of natural justice as no notice was served or notice pay was paid in lieu of the notice period to the workman. Neither enquiry nor charge-sheet was issued and held against the workman by managements No. 1 & 2. The workman served upon the managements No. 1 & 2 demand notice dated 21.09.2023, however, no amicable settlement could be made

possible within stipulated period for conciliation of the dispute and thereof the conciliation proceedings failed. At the time of termination of services of the workman, neither the post held by her was abolished nor the work of the said post was receded nor any such or similar situation has arisen, therefore, the action of terminating the services of the workman is an illegal action and unfair labour practice under Section 25T. The workman has continuously worked for 1367 days during the period of 44 months calendar days preceding the date of her termination on 05.04.2023 i.e., date of termination. The illegal termination of services of the workman is in violation of the provisions of Section 25F, 25G & 25H of the ID Act by managements which makes the termination of the workman void *ab initio*. The workman is not gainfully employed from the date of her termination of services. The workman has been facing financial hardship. It has become difficult for her and her family to make ends meet. Prayer is made that the workman may be reinstated with continuity of service with full back wages i.e. ₹ 11,960/- per month with 18% interest, as she remained unemployed during this period i.e., from date of termination till date, till the date of realization.

3. Notice issued to the management No.1 through ordinary process received back executed through Shri Pardeep - Accountant and notice issued to management No.2 through ordinary process received back executed through Shri Sunil - Accountant. None appeared on behalf of the managements No.1 & 2 despite service of notice, thus vide order dated 16.04.2024 the managements No.1 & 2 were proceeded against ex-parte.

4. In ex-parte evidence workman Rajwanti examined herself as AW1 and tendered his affidavit Exhibit 'AW1/A' along with documents Exhibit 'A1' to Exhibit 'A4'.

Exhibit 'A1' is copy of identity card of Rajwanti bearing issue date 01.04.2023 (original identity card seen and returned).

Exhibit 'A2' is copy of demand notice received in the office of Assistant Labour Commissioner, U.T. Chandigarh on 21.09.2023 (as mentioned in failure report bearing memo No.3252 dated 14.12.2023)

Exhibit 'A3' is copy of letter No.BL/395 dated 09.09.2020 issued by Branch Manager, SBI, Sector 19-C, Chandigarh to SHO, P.S. Chandigarh seeking police verification regarding my antecedents.

Exhibit 'A4' is copy of failure report bearing Memo No.3252 dated 14.12.2023 of Assistant Labour Commissioner-cum-Conciliation Officer, U.T. Chandigarh

5. On 29.11.2024 Learned Representative for the workman closed ex-parte evidence.

6. I have heard the arguments of Learned Representative for the workman and perused the judicial file.

7. Workman Rajwanti examined herself as AW1 and vide her affidavit Exhibit 'AW1/A' deposed the averments of claim statement in toto which are not reproduced here for the sake of brevity. AW1 supported her oral version with documents Exhibit 'A1' to Exhibit 'A4'.

8. The workman in her statement of claim as well as affidavit Exhibit 'AW1/A' pleaded that the workman was appointed as Sweeper w.e.f. 08.07.2019 and on 05.04.2023 she was refused work. It is own case of the workman that earlier she was appointed by the contractor namely M/s Gupta Services and she worked with management No.1. Thereafter on 03.03.2023, management No.2 i.e. M/s Classic Housekeeping & Maintenance Services took the charge of maintenance of management No.1 and workman was employed by the said contractor / management No.2, which fact is proved from the workman's own document Exhibit 'A1' i.e. identity card of the workman issued by Classic House Keeping & Maintenance Services i.e. management No.2. Hence, it is proved that the workman was employee of management No.2 and was deployed to work with management No.1.

9. The workman is proved to have completed 240 days of continuous service in 12 calendar months preceding termination i.e. 05.04.2023. Thus, the workman fulfills the requirement of Section 25B of the ID Act. Once the workman falls within the purview of Section 25B of the ID Act, it is mandatory for the employer to follow the mandate of Section 25F of the ID Act. The management No.2 being Employer

was bound to fulfil the conditions laid down under Section 25F of the ID Act before terminating the services of the workman. For better appreciation Section 25 of the ID Act is reproduced below:-

"25F. Conditions precedent to retrenchment of workmen. - No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until-

- (a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice;
- (b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay [for every completed year of continuous service] or any part thereof in excess of six months; and
- (c) notice in the prescribed manner is served on the appropriate Government [or such authority as may be specified by the appropriate Government by notification in the Official Gazette]."

10. The workman has specifically alleged that before terminating her services, she has neither been issued notice nor paid notice pay in lieu of the notice period. It is further alleged that neither any inquiry was conducted nor any charge sheet was issued to the workman. The evidence led by the workman has gone un rebutted and unchallenged as the management No. 1 & 2 despite service of notice, did not bother to contest the claim statement and preferred to be proceeded against ex-parte. There is no reason to disbelieve the evidence led by the workman. Consequently, the management No.2 is proved to have terminated the services of the workman without following the mandate of Section 25F of the ID Act. Therefore, the management's verbal order of termination of services of the workman w.e.f. 05.04.2023 is illegal and hereby set aside. The workman is held entitled to reinstatement with continuity of service along with 50% back wages.

11. In the view of discussion made above, this industrial dispute is ex-parte allowed qua management No.2. The workman is ordered to be reinstated with continuity of service along with 50% back wages. The management No.2 is directed to comply with the Award within three months from the date of publication of the same in Government Gazette failing which the management shall be liable to pay interest at the rate 8% per annum on the amount of consequential benefits from the date of this Award till its actual realisation. Appropriate Government be informed. Copy of this Award be also sent to Learned District Judge, Chandigarh in view of Sub-section 10 of Section 11 of the Industrial Disputes (Amendment) Act, 2010 for onward transmission of the same to concerned Civil Court. File be consigned to the record room.

(Sd.) . . . ,

(JAGDEEP KAUR VIRK)

PRESIDING OFFICER,

Industrial Tribunal & Labour Court,

Union Territory Chandigarh.

UID No. PB0152

Dated : 29.11.2024.

Secretary Labour,
Chandigarh Administration

CHANGE OF NAME

I, Neelam W/o Rakesh Kumar # 1348, Sector 22-B, Chandigarh, have changed my name to Neelam Basra.

[242-1]

I, Suman W/o Subhash Bhatt # 1247, Sector 56, Chandigarh, have changed my name to Suman Bhatt.

[243-1]

I, Suman Bhatt W/o Subhash Bhatt # 1247, Sector 56, Chandigarh, have changed the name of my minor daughter from Shivanya to Shivanya Bhatt.

[244-1]

I, Naresh Kumar S/o Sh. Mataru R/o H. No. 5232, Maloya Colony, Chandigarh, has changed my name from Naresh Kumar to Naresh.

[245-1]

I, Ritu D/o Ram Saware and W/o Ajay # 1772, Aman Colony, Dhanas, Chandigarh, have changed my name to Ritu Rani.

[246-1]

I, Harshleen Kaur D/o Jagat Jeet Singh # 1814, Sector 49-B, Nirvana Society, Chandigarh, changed my name Sabrina Thakur Dham.

[247-1]

I, Surinderpal Singh Son of Sarmukh Singh Parmar # 1532, Sector 34-D, Chandigarh, have changed my name to Surinderpal Singh Parmar.

[248-1]

I, Sunita Santosh Kumar W/o Santhosh Kumar PR # 211, Behlana, Chandigarh, have changed the name of my minor son from Arshit Santosh Kumar to Arshit Gupta.

[249-1]

I, Pawan Kumar S/o Prem Singh R/o H. No. 178, Sector 45-A, Burail, Chandigarh, have changed the name of my minor son from Naksh to Naksh Dhiman.

[250-1]

I, Arvind Kumar Giri S/o Shri Sunil Giri R/o House No. 2633/2, Ramdarbar, Phase-2, Chandigarh, U.T., have changed my minor son name from Aadarsh to Aadarsh Kumar Giri.

[251-1]

"No legal responsibility is accepted for the contents of publication of advertisements/public notices in this part of the Chandigarh Administration Gazette. Persons notifying the advertisements/public notices will remain solely responsible for the legal consequences and also for any other misrepresentation etc."